

RD AN No. 3788 (1942-G)  
September 17, 2002

SUBJECT: Rural Business Enterprise Grant Program  
Clarification of Processing Issues

TO: State Directors, Rural Development

ATTN: Business Programs Directors

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to clarify and provide guidance regarding eligibility issues for the Rural Business Enterprise Grant (RBEG) program.

**COMPARISON WITH PREVIOUS AN:**

There is no previous AN on this subject.

**IMPLEMENTATION RESPONSIBILITIES:**

Section 310B(c) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932(c)) states, in part, that the Secretary may make grants to public bodies and private nonprofit corporations for measures designed to finance and facilitate development of small and emerging private business enterprises. Further, RD Instruction 1942-G, section 1942.305(a)(1), regarding eligibility, states: "RBE grants may be made to public bodies and private nonprofit corporations serving rural areas."

Please note that the CONACT and RBEG regulations only reference public bodies and private nonprofit corporations. It is your responsibility to determine if the applicant for RBEG assistance is a public body or a private nonprofit corporation.

You must ensure that RBEGs are made to eligible applicants by following the requirements of RD Instruction 1942-G, Attachment 1, section A, II., C. You should request an opinion from the Regional Attorney, Office of the General Counsel (OGC), that the applicant is an eligible applicant per RD Instructions 1942-G and that it has the authority to carry out the purposes of the proposed grant. Since the purpose of each grant

EXPIRATION DATE:  
September 30, 2003

FILING INSTRUCTIONS:  
Preceding RD Instruction 1942-G

will vary, all requests for RBEG funds must be submitted to OGC for their opinion. It is your responsibility to point out to the Regional Attorney any observations that you make while reviewing the applicant's legal documents. This could be as simple as pointing out that the applicant appears to be a nonprofit corporation verses a private nonprofit corporation.

Several questions have recently been addressed to the National Office regarding eligibility of cooperatives and federal credit unions for the RBEG program. As pointed out above, RD Instruction 1942-G and the CONACT only list as eligible entities for the RBEG program public bodies and private nonprofit corporations. By definition in section 101 of the Federal Credit Union Act, a credit union is a cooperative and, therefore, would be neither a private nonprofit corporation nor a public body. Thus, a credit union or a cooperative is not eligible for the RBEG program. This conclusion was reached in an opinion issued by the National Office of the General Counsel.

### **SUMMARY**

The RBEG program is administered by Rural Development through the Rural Business-Cooperative Service (RBS) using RD Instruction 1942-G. RBS will request an opinion from the OGC Regional Attorney that the applicant for the RBEG is an eligible applicant with authority to carry out the purposes of the proposed grant. Definitions in RD Instruction 1942-G, section 1942.304, must be followed; and it is essential that the eligibility determination is considered by approving officials, see RD Instruction 1942-G, section 1942.305. Rural Development State Offices are responsible for assuring that requirements of RD Instruction 1942-G and this AN are adhered to in administering the RBEG program.

If you have any questions, please contact Joseph Ben-Israel, Processing Branch Chief, Specialty Lenders Division, (202) 720-6819.

***(Signed by John Rosso)***

JOHN ROSSO  
Administrator